

### **REMARKS / ARGUMENTS**

The retail shelving system represented by this continuation-in-part, division application and its parent has achieved significant commercial success. A declaration drawn under 37 CFR § 1.132 is submitted herewith describing that success.

It is noted that the drawings are objected to under Rule 1.83 (a). In applying this rejection the Examiner indicated that the D-shape merchandise retaining loop having spaced apart legs insertable within said forward receptor gap in claims 7 and 21 are not shown. In fact they are shown in Fig. 1 at 54 and in Fig. 12 at 54 along with rod 55.

Additionally, the Examiner has indicated that the "rod-form merchandise guideways having downwardly disposed oppositely disposed legs positionable respectively into said forward and rearward receptors gaps" in claims 8 and 22 must be shown. These devices are shown at 48 in Fig. 1. Next, the Examiner has required drawing correction. Accordingly, additional Figs. 1A and 1B showing these devices are proffered. Appropriate references to these additional drawings are submitted as parenthetical expressions at page 6 in the Detailed Description and are inserted in the brief description of the drawings. As is quite apparent, no new matter is added.

It is noted that the Examiner has indicated that with respect to claim 30, line 4, "said base rod" should be – said rod beams – and at line 6, "said bin length" should be - - said bin width - -. The Examiner's suggestions are incorrect. The subject at hand is described in connection with Fig. 16, for example as represented alphanumerically at 430. At page 8 of the Detailed Description the base rods are described as having a lengthwise extent corresponding with that bay width. The terms "bin length" are in consonance with the description of the base rods as having a length. On the other hand, the specification describes "bay width" as being between uprights 20 and 21 as seen in Fig. 1. Note that in claim 30 it is the "bin length", i.e., the distance between the dividers as seen in Fig. 16 which is being considered. In contrast, the rod beams are shown in Fig. 2, for example, at 98. That's the wrong direction.

It is noted that claim 26 is objected to as it appears to be a double recitation of claim 12. The Examiner is correct, claim 26 has a typographical error. It should be dependent upon claim 13. That amendment is made with this response.

It is noted that claim 7, 8, 13-23, 25, 26 and 42-47 have been rejected under §112 of the Patent Statute. With respect to claim 7, 8, 21 and 22 the Examiner indicates there is no support of what is being claimed. That support is described immediately above in connection with the drawing analysis.

With respect to claim 13, line 33 and claim 42, line 8, the Examiner indicates there is no antecedent for "said vertical supports" and "said vertical support". With respect to claim 13 the

antecedent basis for the line 33 entry is provided at lines 1 and 2 of the claim. With respect to claim 42, the claim has been amended at the noted line to describe "a first one of said vertical supports". This matches the recitation set forth in the second bracket assembly recitation.

It is noted that the Examiner has rejected claim 13 under the judicially created doctrine of double patenting over U. S. Patent No. 6,302,282, a patent which issued from the parent application for which the instant application is a division. As stated in the applicant's last response, claim 13 is directly imported from the parent application. In the parent application it was claim 16. As noted in that earlier response, this double patenting rejection is not permitted under the provisions of §121 of the Patent Statute and is not permitted under § 804.01 of the MPEP. Again, the Examiner is not comparing claims as is mandated by the MPEP. Applicants reassert their commentary in their last response. The rejection also defies logic. Under 35 USC 154 (a) (2) the term of U. S. Patent No. 6,302,282 is twenty years from its filing date. Under 35 USC 121 a patent issuing from the instant divisional application is entitled to the benefit of the filing date of the original application. Accordingly, any patent issuing from this application will expire on exactly the same date as the parent. Perhaps the Examiner has some other rationale concerning double patenting rejections. If so, it should be stated.

It is noted that claim 1 has been rejected under § 103 of the Patent Statute as being unpatentable over Upshaw et al, U. S. Patent No. 4,298,127 (Upshaw et al.) in view of Merl, U. S. Patent No. 5,133,463 (Merl).

As a prelude to considering this rejection, perhaps a cursory review of the invention at hand would be of some value. The invention is concerned with an open frame display shelf assembly which connects to vertical supports. These self assemblies are intended for use in a retail environment and, as a consequence, it is very useful to the retailers that the shelves be tiltable from horizontal. By so being tiltable, the shelves can be used for feed forward purposes as illustrated at shelves 26, 27 and 29 in Fig. 1. This achieves a dual purpose. As seen in the figures, by tilting the shelves downwardly, a feed forward feature is achieved. Of additional and particular importance, the tiltability of the shelves permits a better view of the shelved merchandise on the part of the customer. Tiltability is achieved in a very unique manner with adjustable brackets which are the subject of the application which is parent to the instant application. Additionally, the shelves are structured such that they can carry the relatively heavy loads which are often encountered in a retail environment. Next, because of the tilting of the shelves, signage associated with the shelves is uniquely designed such that it can be easily tilted to face the customer's line of sight.

Another important feature is the utilization of a very strong open frame assembly which also is configured to define upwardly and downwardly opening receptor gaps in the front and

back walls as well as in the side walls. Those receptor gaps are configured to receive any of a variety of guideways or merchandise retainers as seen at 48 and 58 in Fig. 1. Thus, the front, back and side walls are generally perpendicular to the base.

Newly added in the instant application is a signage embodiment represented in Figs. 16-18 which has particular utilization in the display of products such as wallpaper borders which have a distinctive pattern which cannot be readily discerned by looking at them in their rolled up, packaged condition. As seen in Fig. 16, such products are positioned in distinctive bins slightly tilted to provide a feed forward feature and above the bins are individual signs as at 471 and 478 which carry the distinctive pattern of the product behind it. The customer merely pivots these pattern containing signs upwardly to retrieve the product desired. The signs are tilted such that they are readily observable from an eye station of the customer as represented at 432.

In applying the rejection of claim 1, the Examiner has asserted incorrectly that Upshaw et al. discloses an open frame display shelf assembly. To the contrary, Upshaw et al. specifically describes an improved basket assembly provided with a plurality of stackable baskets. The Examiner then equates the longitudinal wires of Upshaw et al. to the base rods of the instant application and the base elements of Upshaw et al. to the rod beams of the instant application. The Examiner then asserts that the base elements form forward and rearward front walls above the shelf and defined gaps therebetween. The Examiner is incorrect. The base elements 136 are bent upwardly at an outward angle in the manner of a basket and define no gaps whatsoever. In fact, because they are disposed at an angle greater than 90°, they cannot function to establish receptor gaps as defined in claim 1. The Examiner is asserting an impossible condition. The Examiner then asserts that the forward and rearward front walls of Upshaw et al. have a plurality of elongate forming rods. That is incorrect. The front wall of the reference has a singular horizontal runner 122 and the rear wall has a singular horizontal runner 124. There is no plurality of elongate forward wall forming rods which function with the rod beams to form receptor gaps. As noted, any receptor gaps would have no function in Upshaw et al. because of the basket-defining cant of the walls.

As opposed to the stacked baskets of Upshaw et al. the shelving assemblies of the instant invention are required to sustain shelf loads through a cantilevered attachment with a standard. The Examiner asserts that there are a plurality of sidewall forming rods, the Examiner indicating top rail 158 and connecting wire 170, arranged in parallel with the base elements, i.e., 136 and fixed to oppositely disposed portions of load transfer rods. The Examiner equates load transfer rods to keying wire 140, crosswise rail 160 and vertical wire element 166. There is no physical relationship whatsoever between the side load transfer rods as at 108 and what the Examiner alleges. Load transfer rods are part of the transfer of load to a cantilevered side wall

in the instant invention. The side walls of Upshaw et al. are removable and cannot be construed to be the cantilevered mechanism of the instant invention. Next, the Examiner alleges that Upshaw et al. shows side wall receptor gaps. That is incorrect. Side wall receptor gaps as defined in claim 1 are open upwardly as well as downwardly as a consequence of the geometry explicitly defined in the claim. Should a receptor gap be defined in a side wall of Upshaw et al. it only points downwardly and is there for the purpose of stacking. It can have no function whatsoever equivalent to the function of the side wall receptor gaps of the instant invention.

Next, the Examiner asserts that Merl teaches an open frame shelf with brackets connectable to vertical supports. Merl teaches that, but that is all Merl teaches. The Examiner then states that it would have been obvious to add the brackets of Merl to the baskets of Upshaw et al. That is an entirely inaccurate statement. Why would anyone wish to attach brackets to a stackable basket?

What the Examiner has done has been to import the language from the claims of the instant application into the references while avoiding the different terminology with different meanings employed in the references:

"[I]t is impermissible to use the claimed invention as an instruction manual or 'template' to piece together the teachings of the prior art so that the claimed invention is rendered obvious... This court has previously stated that '[o]ne cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention. '"

*In re Fritch* 972 F2d 1260, 1266, 23 USPQ2d 1780, 1784 (Fed. Cir. 1992).

It is impermissible to use the inventor's disclosure as a "roadmap" for selecting and combining prior art disclosures. See *Interconnect Planning Corp. v. Feil* 774 F2d 1132, 227 USPQ 543 (Fed. Cir. 1985).

In asserting that it would have been obvious to combine the noted two references, the Examiner has used the applicant's own disclosure as a roadmap.

It is noted that claims 2,3, 5 and 6 have been rejected under § 103 of the Patent Statute as being unpatentable over Upshaw et al. in view of Merl and further view of Garfinkle. In asserting this rejection, the Examiner asserts that Garfinkle teaches a general planar sign (12) having at least two couplers (13 and 16) connected between sign engaging surface assembly (2 and 3) where in the couplers allow to alter the slope of the sign (sic). The Examiner ignores the teachings of claim 2. First, the claim calls for sign mount connected to forward wall forming rods. There is only one horizontal runner in Upshaw et al. Claim 2 recites at least two couplers connected between the sign engaging surface assembly and the forward wall forming rods.

That is an impossible arrangement with the references cited. The Examiner, in calling out two couplers, is describing a coupler attached to a coupler and avoids the clear recitations of claim 2. Next, claim 2 looks to the function of the couplers with respect to the tiltability of the entire shelf assembly. It is to realign the signage with respect to the customer's sight angle. Note that claim 2 calls out that the couplers are connected in orientations altering the slope of the sign engaging surface in compensating correspondence with the predetermined angles of the shelf assembly. Those predetermined angles are recited in connection with the bracket assembly recitation of claim 1. Attaching a sign to the forward sloping basket forward walls of Upshaw et al. would be a task in and of itself and the bracket of Merl does not tilt.

Claim 3, dependent upon claim 2 calls out that the forward wall forming rods are spaced apart a predetermined distance. There is only one rod in Upshaw et al. The claim further recites that the coupler is configured having a rearwardly disposed semi-circular periphery engagable with the wall forming rods to provide the slope involved. There is no hint of such an arrangement in any of the references.

Claim 5, dependent upon claim 1 recites that four of the elongate forward wall forming rods are configured as two adjacent parallelogramic loops. The claim further calls out that four of the first and second side wall forming rods are configured as two adjacent parallelogramic loops. There is no such structure as much as suggested in the references, taken singly or in combination.

Claim 6, dependent upon claim 1 recites the presence of the access gaps 176 and 178 (Fig. 2) which are described at page 10, ll 32 *et seq.* Upshaw et al. has no brackets and is simply a stacked basket assembly. Merl has no adjustable brackets representing the function of the brackets of the instant invention and Garfinkle has nothing whatsoever to do with access gaps. Apparently, the Examiner has simply ignored the recitations of claims 3, 5 and 6.

It is noted that claims 9, 10, 27-31, 48 and 50 have been rejected under § 103 of the Patent Statute as being unpatentable over Upshaw et al. in view of Merl and further in view of Henke et al., U. S. Patent No. 5,924,367 (Henke et al.). In applying this rejection the Examiner has asserted that Henke et al. teaches a pivotal sign assembly (36) which comprises a sign having a flat visual display support surface (37), a clevis pin (60) which is called a pivot connector, a pivot bracket which is referred to as a pivot hook (62).

Next, the Examiner asserts that it would have been obvious to provide the modified shelf display assembly (presumably of Upshaw, et al) with the provision of a pivotal sign assembly as taught by Henke et al. in order to have a sign that promotes information or advertising the products and at the same time allows easy access to the products stored behind the sign. There is no such suggestion in the references, taken singly or in combination. Apparently the

Examiner is relying upon his own expertise in this matter. Accordingly, the applicants call upon the Examiner to show evidentiary documentation of such obviousness for the reasons given. The Examiner is further called upon to supply a personal affidavit describing just how this obviousness is present, under the provisions of 37 CFR § 1.104 (d)(2).

Looking to claim 9, which is concerned with the embodiment of Figs. 16 et seq, first called out are at least three parallel elongate base rods described in the application in Fig. 18 at 510-512, including two forward base rods which are positioned in spaced adjacency with the shelf forward region. There is no hint of such geometry in any of the references. The signage in Henke et al. attaches to the forward edge of a shelf. Next, the claim recites that the base rods are located for the pivotal support of a forwardly sloping sign support assembly. Hanke et al. illustrates a vertical signage arrangement.

Next, claim 9 recites that the sign support assembly is pivotally supported from one of the forward base rods. There is no hint of this arrangement in the references. Next, claim 9 recites that the sign support assembly is dimensioned to contact the forward region of a mutually next adjacent lower shelf assembly to effect a sloping orientation for promoting visualization from an eye station (432) remote from the shelf assembly. There is no resemblance between the illustrated and claimed feature and the references, taken singly or in combination.

Earlier cancelled claim 10, dependent upon claim 9 further elaborates upon the visual display support reciting that it incorporates first and second channel assemblies extending along its length. Those channel assemblies are, for example, described in connection with Fig. 19 at page 22 of the specification as at 570 and 574. Next, claim 10 calls for a pivot connector extending from the display support upper edge and including a pivot hook engagable with one of the forward base rods. That pivot connector is described at 558 in Fig. 19 and the hook is located at 588. These features are described at page 22 of the detailed description. Item 62 in Henke et al. is a clevis pin not a pivot hook. Again, the Examiner is importing the applicants own disclosure into the references to assert a rejection. This is improper.

Claims 27-31 look to the same form of recitation as discussed above, for example, claim 27 describes that the sign support assemblies have a display width of dimension effective to effect contact of the inner surface thereof with the sign contact surface of the next adjacent lower shelf of the system. Claims 28-30 further elaborate upon the specific structure at hand which achieve the highly desirable product presentation represented in connection with Fig. 16. None of the references, taken singly or in combination, suggest these claimed features.

Claim 48 represents earlier allowed claim 10 while claim 50 represents earlier allowed claim 31. Of interest, claims 10, 24 and 31 were cancelled in the applicants last response since

they were converted into independent form. Claim 31 should be considered allowable for reasons given above in connection with claim 10 which, in effect, is claim 48.

It is noted that claims 11 and 32 have been rejected under § 103 of the Patent Statute as being unpatentable over Upshaw et al. in view of Merl and Henke, et al. and further in view of Visocky et al., U. S. Patent No. 4,593,486 (Visocky et al.).

Claim 11 is dependent upon claim 48 (claim 10) which, in turn, was dependent upon claim 9 which, in turn, was dependent upon claim 1. Thus, claim 11 incorporates all of those distinguishing characteristics discussed above. However, the claim looks to the display support described in connection with Figs. 19 and 20. The claim recites that the first channel is formed as a dual channel assembly having a forward channel (574) and a rearward channel (575) including a channel containing engagement member (578) positioned in spaced relationship from the rearward channel. The claim further recites that the pivot connector includes a connector channel (584) slidably engagable with the rearward channel and including a stabilizer tab 586 engagable with the engagement member. In applying this rejection, the Examiner again is using the applicant's own disclosure as a road map. For example, the Examiner describes the curved channel element 35 as an engagement member. Element 35 receives screws laterally to support the sign assemblage of the reference. There are no screws in the assembly of Fig. 19 and no resemblance whatsoever of that figure to the reference either in form or function. The Examiner then describes a pricing module 36 as a pivot connector. The pricing module 36 in the reference is not a connector. Next, the Examiner describes the pricing module 36 as having a connector channel, presumably at 38. Item 38 is a bezel having nothing to do with connection. The Examiner then describes the stabilizer tab 586 as being equivalent to the tapered locking head 46 of lock arm 45. There is no resemblance between those elements and the claimed stabilizer tab 586. Again, the Examiner is utilizing the applicant's own description as a roadmap of rejection.

Next, the Examiner states that it would have been obvious to modify the visual display sign of Henke et al. with a sign that has a dual channel as taught by Visocky et al. in order to prevent misalignment of pricing on the sign and the pricing can be quickly changed without removing the sign module from the shelf. Apparently, the Examiner is applying his own expertise in analyzing both the detailed description of the instant application and the references. The applicants call upon the Examiner to provide documentary evidence supporting his position or to supply the applicants with a personal affidavit supporting this statement in accordance with 37 CFR §1.104 (b)(2).

Applicants assert the same response with respect to claim 32.

It is noted that claims 12, 26 and 33 have been rejected under § 103 of the Patent Statute as being unpatentable over Upshaw et al. in view of Merl. With the present response, a

typographical error is corrected in connection with claim 26. It was indicated as being dependent upon claim 1 which would have made it a duplicate of claim 12. The claim properly should have been dependent upon claim 24 which is now claim 49. Claim 33 has been amended to provide antecedent basis to be recited first and second receptor gaps.

These claims look in particular to the advantage accruing from the receptor gap structuring of the top shelf. The overhead signage as claimed compliments the unique signage presentation described in connection with Fig. 16. These claims should be considered allowable for reasons given above in connection with the claims from which they depend.

It is noted that claims 18 and 19 have been rejected under § 103 of the Patent Statute over U. S. Patent No. 6,302,282 in view of Upshaw et al. and Garfinkle. The '282 patent issued from the parent application from which the instant application is a divisional application. As stated in the applicant's last response, claims 18 and 19 were imported into the instant application directly from the parent application in consequence of an imposed restriction requirement. Accordingly, the Examiner is forbidden under the provisions of § 121 of the Patent Statute from utilizing the applicants own parent case against them.

The claims look to the signage described, for example, in Figs. 9 and 10. These claims readily distinguish over Garfinkle in calling out that the two couplers are connected between the sign engaging surface assembly and the forward wall forming rods. There are no forward wall forming rods in Upshaw et al. and the couplers of Garfinkle are coupled to each other. With respect to claim 19 it should be observed that there are no forward wall forming rods in Garfinkle or Upshae et al. and there is no rearwardly disposed semicircular periphery engagable with those wall forming rods.

It is noted that claims 23 and 24 have been rejected under § 103 of the Patent Statute as being unpatentable over the Gay parent patent No. 6,302,282 in view of Upshaw et al. as applied to claim 13 and further in view of Henke et al. Claim 24 was cancelled with the applicant's last response and reappears as claim 49. Inasmuch as claim 49 has received the same rejection it is herein considered in conjunction with claim 23. The Examiner is incorrect in utilizing U. S. Patent No. 6,302,282 as prior art. The claims in question represent continuation-in-part material and the noted '282 patent is not prior art under the provisions of §102 of the Patent Statute.

Claim 23 looks to the unique slanting signage shown in Fig. 16. The claim recites the presence of at least three parallel elongate base rods including two forward base rods which are positioned in spaced adjacency with the shelf forward region. Additionally, these rods are located for the pivotal support of a forwardly sloping sign support assembly. The unique spacing of these rods is illustrated in Fig. 18 at 510-512. The sign of Henke et al. hangs straight down and that is all it does. Claim 23 further provides the recitation of a sign support assembly



pivotaly supported from a select one of the forward base rods. Henke et al. supports the sign from the edge of a shelf in a vertical orientation. Claim 23 further provides that the sign support assembly is dimensioned to be effective to contact the forward region of a mutually next adjacent lower shelf assembly mounted upon the vertical support to effect a sloping orientation for promoting visualization from an eye station remote from the shelf assembly. The eye station is shown at 432 in Fig. 16. There is no resemblance between Henke et al. and the unique product represented by claim 23.

Claim 49, which incorporates claim 23, further provides description of the sign support assembly as represented in Figs. 19 and 20. The claim provides that the sign support assembly comprises a flat visual display support which is configured with first and second channel assemblies extending along its length. Those channel assemblies are seen in Fig. 19 at 574 and 570. Next, the claim calls for a pivot connector extending from the display support upper edge and including a pivot hook pivotaly engagable with a select forward base rod. Recall the base rods are illustrated in connection with Fig. 18 at 510-512. There is no resemblance between this feature as claimed and Henke et al.

It is noted that claim 25 has been rejected under § 103 of the Patent Statute as being unpatentable over U. S. Patent No. 6,302,282 in view of Upshaw et al., Henke et al., and Visocky et al. The '282 patent issued from the parent application for which the instant application is a division and continuation-in-part. Accordingly, the patent is not prior art under the provisions of § 102 of the Patent Statute. That patent was improperly combined with Upshaw et al. and Henke et al. and further in view of Visocky et al.

Claim 25 looks to the structure illustrated in Figs. 19 and 20 reciting a dual channel assembly having a forward channel as at 574 at the front face and a rearward channel as at 575 at the rear face. Further recited is the channel containing engagement member as shown at 578 in Fig. 19. Next, the claim describes that the pivot connector includes a connector channel as at 584 slidably engagable with the rearward channel 575 and including a stabilizer tab 586 engagable with the engagement member. It should be born in mind that the claim further incorporates all of the recitations of claim 49 which, in turn, incorporates the recitations of claim 13. The Examiner is improperly importing the applicant's own disclosure in interpreting Visocky et al. For example, item 35 is not an engagement member, it's a curved channel element intended to receive screws. Item 36 is not a pivot connector. It's a pricing module. Item 36 further is not a connector channel. Item 38 is not a connector channel but is a bezel. Item 46 is not a stabilizer tab but is a tapered locking head component of a spring lock arm 45.

Next, the Examiner has asserted that it would have been obvious to modify the visual display sign of Henke et al. with a sign that has a dual channel as taught by Visocky et al. in

order to prevent misalignment of pricing on the sign and pricing can be quickly changed without removing the sign module from the shelf. The present application has nothing to do with pricing tags. Apparently the Examiner is relying on his own expertise in asserting this rejection. Accordingly, applicants call upon the Examiner to provide documentary evidence supporting his position or to supply the applicants with a personal affidavit supporting this statement in accordance with 37 CFR § 1.104 (d)(2).

Claim 49 has been discussed above in connection with the Examiner's rejection of cancelled claim 24.

It is noted that claims 42-47 have been rejected under § 103 of the Patent Statute as being unpatentable over Buffington et al. in view of Visocky et al. These claims look to the unique angularly adjustable forward wall signage as described, for example, in Figs. 9 and 10. Because the shelving assemblies of the instant invention are pivoted by a unique bracket assembly this signage pivoting assures that the customer's line of sight will be directed into the sign face itself. In applying this rejection, the Examiner asserts that Buffington et al. discloses a display shelf assembly comprising a base region 32. Item 32 is a cross rod. However, the shelf of Buffington et al. is angularly adjustable. However, Buffington et al. has no forward signage. Visocky et al. was asserted as teaching a mounting trackway section (21) and at least two couplers (35 and 36) connected between sign engaging surfaces. That is not the case. Item 36 is a pricing module and item 35 is a curved channel element which is connected to side posts using screws. Claim 42 requires that the sign mount be connected to forward wall forming rods and that the couplers are connected between the sign engaging surface assembly and the forward wall forming rods in orientations altering the slope of said sign engaging surface in compensating correspondence with the predetermined angles established by the bracket assemblies. There is no such teaching whatsoever in either of these references.

Claim 43, dependent upon claim 42, further describes the coupler as being configured with the rearwardly disposed semicircular periphery engagable with wall forming rods to provide the slope of the sign engaging surface. Visocky et al. doesn't slope and Buffington et al. has no signage.

Claim 44, dependent upon claim 43 further calls out that the coupler periphery is configured having a sequence of notches each with a notch shape for receiving a forward wall forming rod. Further, the coupler calls for a centrally disposed opening extending therethrough and the coupler being retainable against the wall forming rods by a flexible strap retainer extending through the centrally disposed opening. There is nothing in either of the references that suggests that combination.

Claim 25, dependent upon claim 42 sets forth that the couplers are configured having a rearwardly disposed semicircular periphery with a sequence of notches, each with a notch shape selected for abutting engagement with a forward wall forming rod. Such an arrangement is not suggested by the references. The claim further describes that the sign engaging surface assembly includes a flanged connector extending therefrom and mechanically coupled with each coupler. That connector is shown in Fig. 9 at 258. There is no such connection suggested by the references.

Claim 46, dependent upon claim 45 describes that each coupler includes a forwardly disposed slot engagable with the flanged connector. The slots are described at 260 in Fig. 9. These references, taken singly or in combination, have no similar construction.

Claim 47, dependent upon claim 45 describes that sign engaging surface assembly includes two oppositely disposed channels for slidably receiving a sign. Those channels are shown at 250 and 252 in Fig. 9. The claim should be considered allowable for reasons given in connection with claim 45.

It is noted that the Examiner has asserted that with respect to claims 7, 8, 21 and 22 there is no disclosure of such an embodiment in the detailed description or drawings. As indicated earlier herein the Examiner is incorrect. Those components are described both in the specification and the drawings as set forth above.

Applicants have considered the prior art made of record is not relied upon, as well as that art supplied with the Office Action. As is apparent, these references, taken singly or in combination failed to militate against the patentability of the instant application as claimed.

It is noted that claims 4, 20 and 36 were considered to be allowable.

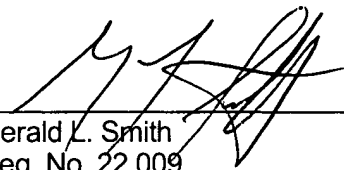
It is noted that the Examiner has disagreed with the applicants early response in connection with his rejection of divisional claims under the Doctrine of Double Patenting. In connection with this disagreement, the Examiner states: "It should be noted that there is no clear demarcation of the claimed brackets from the previous application". Applicants necessarily must guess at the meaning of the Examiner's comment. However, at page three of the applicant's last response the claims in question were identified both with a numbering as it appeared in the original parent application and as they reappear in the present application.

It is submitted that the statutorily improper rejection in the Office Action mailed January 16, 2003 and the continued statutorily improper rejections identified in the current Office Action have imposed an undue time and financial burden upon the applicants.

Further favorable action is earnestly solicited.

Respectfully submitted,

Date: July 10, 2003

  
\_\_\_\_\_  
Gerald L. Smith  
Reg. No. 22,009  
MUELLER AND SMITH, L.P.A.  
MUELLER-SMITH BUILDING  
7700 Rivers Edge Drive  
Columbus, Ohio 43235-1355  
Tel.: 614-436-0600  
Fax: 614-436-0057  
email: jsmith@muellersmith.com

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited on July 10, 2003 with the United States Postal Service as first class mail in an envelope addressed to:

Mail Stop No Fee Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

  
\_\_\_\_\_  
Jane Keeney

enclosures:  
Figs. 1A and 1B  
Declaration